

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

MARK GOODMAN
ADC #87233

PLAINTIFF

V.

5:04CV00285 JTR

AGNES J. THOMAS, Sergeant,
Cummins Unit, Arkansas Department of Correction, et al.

DEFENDANTS

ORDER

Defendants have filed a Motion to Dismiss and a Brief in Support alleging that this *pro se* § 1983 action should be dismissed because: (1) Plaintiff failed to fully and properly exhaust his administrative remedies; (2) Plaintiff has failed to state a claim upon which relief may be granted; and (3) Defendants are entitled to qualified and sovereign immunity. *See* docket entries #12 and #13. The Court concludes that a Response from Plaintiff would be helpful to the resolution of that Motion.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff shall file, within thirty days of the entry of this Order, a Response to Defendants' Motion to Dismiss (docket entry #12).

2. Plaintiff is hereby advised that his failure to timely comply with this Order could result in the dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2)¹ and that

¹ Local Rule 5.5(c)(2) provides, in pertinent part that: "If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice."

such dismissal could constitute a "strike" as defined by 28 U.S.C. § 1915(g).²

Dated this 14th day of September, 2005.


UNITED STATES MAGISTRATE JUDGE

² 28 U.S.C. § 1915(g) provides that a prisoner may not proceed with a civil suit *in forma pauperis* "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." (Emphasis added.)